



City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor
Anu Natarajan, Vice Mayor
Bob Wieckowski
Bill Harrison
Suzanne Lee Chan

City Staff

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Harvey E. Levine, City Attorney
Melissa Stevenson Dile, Deputy City Manager

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Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Daren Fields, Economic Dev. Director
Annabell Holland, Parks & Recreation Dir.
Norm Hughes, City Engineer
Jill Keimach, Community Dev. Director
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Michael Rich, Human Resources Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

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Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
JULY 14, 2009
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – None*
- 2.3 *2009 ASPHALT OVERLAY, CITY PROJECT NO. 8234H (PWC)
Approval of Plans and Specifications and Award of Contract in the Amount of
\$5,833,856.20 to the Lowest Responsible Bidder for the 2009 Asphalt Overlay, City
Project No. 8234H (PWC)*

Contact Persons:

<i>Name:</i>	<i>Craig Covert</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4785</i>	<i>510-474-4748</i>
<i>E-Mail:</i>	<i>ccover@fremont.gov</i>	<i>nhughes@fremont</i>

RECOMMENDATIONS:

- 1. *Approve the plans and specifications for 2009 Asphalt Overlay, City Project No. 8234H (PWC).*
- 2. *Waive minor irregularities and accept the bid and award the construction*

contract for 2009 Asphalt Overlay, City Project No. 8234H (PWC), to the lowest responsible bidder, Granite Rock Company in the amount of \$5,833,856.20 and authorize the City Manager or designee to execute the contract

2.4 CONTRACT WITH ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY FOR SCHOOL-SITE SERVICES

Approval of New Contract with Alameda County Health Care Services Agency for School-site Mental Health and Case Management Services

Contact Person:

Name:	<i>Iris Preece</i>	<i>Suzanne Shenfil</i>
Title:	<i>YFS Administrator</i>	<i>Director</i>
Dept.:	<i>Human Services</i>	<i>Human Services</i>
Phone:	<i>510-574-2128</i>	<i>510-574-2051</i>
E-Mail:	<i>ipreece@fremont.gov</i>	<i>sshensfil@fremont.gov</i>

RECOMMENDATION:

- 1. Authorize the City Manager or designee to execute a contract totaling \$185,000 with Alameda County Health Care Services Agency to implement expanded mental health and case management services at Fremont school sites.*
- 2. Appropriate \$100,000 in Tobacco Settlement funding to Fund 170, and \$10,850 in Targeted Case Management funding to Fund 565.*

3. CEREMONIAL ITEMS

- 3.1 Proclamation: National Night Out, August 4, 2009

4. PUBLIC COMMUNICATIONS

- 4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – The Redevelopment Agency Board will convene at this time and take action on the agenda items listed on the Redevelopment Agency Agenda. See separate agenda (yellow paper).

PUBLIC FINANCING AUTHORITY – None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS

- 5.1 MAIN STREET VILLAGE--3615/3657 MAIN STREET AND 41037/41045 HIGH STREET IN THE IRVINGTON PLANNING AREA – PLN2009-00153
Public Hearing (Published Notice) to Consider Planning Commissions
Recommendation to Approve a General Plan Amendment to Change the Land Use Designation from Medium Density Residential (15-18 Dwelling Units Per Acre) to High Density Residential (27-35 Dwelling Units Per Acre), Introduction of an Ordinance Rezoning from Planned District (P-84-12) to Multi-Family Residence District (R-3-35), Site Plan and Architectural Review and Preliminary Grading Permit to Develop a 1.6-Acre Site with a Residential Project Including 64-Units and a Conditional Use Permit to Allow 3,400 Square Feet of Ground Floor Office Space Within the Project. A Mitigated Negative Declaration has been prepared and circulated for this project in accordance with the requirements of the California Environmental Quality Act

Contact Person:

Name:	Susan H. Summerford	Jeff Schwob
Title:	Planner II	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4543	510-494-4527
E-Mail:	ssummerford@	schwob@fremont.gov

RECOMMENDATION:

1. Hold public hearing.
2. Adopt the Mitigated Negative Declaration and find this action reflects the independent judgment of the City of Fremont.
3. Find that the proposed General Plan Amendment, Rezoning, Conditional Use Permit, Preliminary Grading Plan and Site Plan and Architectural Review are in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the proposed land use designation as well as the goals, objectives and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the staff report. The project also conforms to the goals, objectives, and policies of the Irvington Concept Plan.
4. Adopt a resolution approving a General Plan Amendment changing the land use designatin from Medium Density Residential (15-18 dwelling units per acre) to High Density Residential (27-35 dwelling units per acre) as shown on Exhibit "B".
5. Waive full reading and introduce an ordinance rezoning the property from Planned District, P-84-12 to Multi-family Residence Distrcit, R-3-35 as shown on Exhibit "C".
6. Approve the conditional use permit and preliminary grading plan, as shown on Exhibit "D", subject to findings and conditions in Exhibit "E".

5.2 HOUSING ELEMENT REVISION

Public Hearing (Published Notice) to Consider a Planning Commission
Recommendation to Adopt a Revised Housing Element of the City's General Plan

Contact Person:

Name:	Dan Schoenholz	Jeff Schwob
Title:	Policy and Special Projects Manager	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4438	510-494-4527
E-Mail:	dschoenholz@fremont.gov	jschwob@fremont.gov

RECOMMENDATION:

1. Hold public hearing.
2. Adopt a Negative Declaration and find this action reflects the independent judgment of the City of Fremont as shown on Exhibit "A."
3. Adopt a resolution amending the General Plan by adopting the updated Housing Element as shown in Exhibit "B."
4. Direct staff to submit the draft Housing Element to the State Housing and Community Development Department for their review and certification

6. REPORT FROM CITY ATTORNEY

- 6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

7.1 MIDTOWN DISTRICT – TOWN FAIR ONE PROPERTY ACQUISITION

Authorize a Series of Actions to Enable City Acquisition of a 1.59 Acre Parcel (Town Fair One) Located at the Corner of Capitol Avenue and State Street

Contact Person:

Name:	Daren Fields	Harvey Levine
Title:	Director	City Attorney
Dept.:	Economic Development	City Attorney
Phone:	510-284-4020	510-284-4030
E-Mail:	dfields@fremont.gov	hlevine@fremont.gov

RECOMMENDATION: That the City Council approve and authorize a series of actions to enable City acquisition of a 1.59 acre Property located at the corner of Capitol Avenue and State Street needed for continuation and/or expansion of existing City facilities, including the following:

1. Approval and authorization for the City Manager to execute an Assignment and Assumption Agreement with TMG Partners, whereby TMG Partners will assign to the City its rights under a Purchase and Sale Agreement with the current parcel owner, so that the City can become the buyer of the Property or in the alternative, enter into a Purchase and Sale agreement with TMG Partners to acquire the property after it is acquired by them;

2. Approval and authorization for the City Manager to take all steps needed under a Purchase and Sale Agreement to complete the purchase of the Property, including making all purchase price and closing cost payments and payment of the fee required to pre-pay and eliminate the current loan on the Property;
3. Approval and appropriation of \$4,000,000 from Fund 541 (Park Dedication Fees AB1600) to 541PWC8520 (Downtown Plan project) for the acquisition of a 1-acre portion of the Property for a future civic park;
4. Approval for use of the current appropriation of \$2,400,000 from Fund 501PWC8520 (Downtown Plan project) for the acquisition of a .59 acre portion of the Property for continuation and/or expansion of existing City facilities in the Midtown District;
5. Approval and authorization for the City Manager to execute a Management Agreement with TMG Partners for the professional management of the Property following City acquisition;
6. Approval and authorization for the City Manager to take such other actions on the City's behalf as are appropriate to complete the transaction described in this report; and
7. A determination that the transaction described in this report is exempt from CEQA pursuant to State CEQA Guidelines Sections 15301 and 15332.

8. COUNCIL COMMUNICATIONS

8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Appointment of Caroline Harris to the Environmental Services Advisory Commission

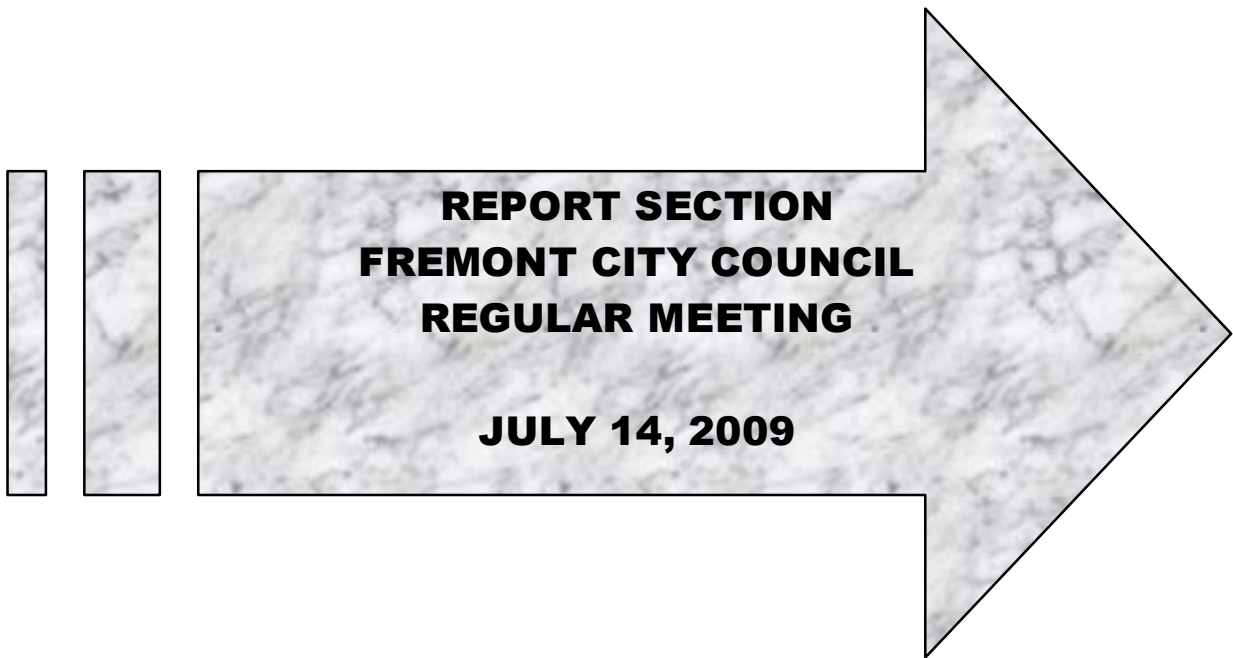
Appointment:

<i>Advisory Body</i>	<i>Appointee</i>	<i>Term Expires</i>
Environmental Services Advisory Commission	Caroline Harris (representing Environmental Organization)	December 31, 2012

8.1.2 VICE MAYOR NATARAJAN REFERRAL: Consider Adding the City of Fremont to the Bay Area Climate Change Compact

8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



**REPORT SECTION
FREMONT CITY COUNCIL
REGULAR MEETING**

JULY 14, 2009

***2.3 2009 ASPHALT OVERLAY, CITY PROJECT NO. 8234H (PWC)**

Approval of Plans and Specifications and Award of Contract in the Amount of \$5,833,856.20 to the Lowest Responsible Bidder for the 2009 Asphalt Overlay, City Project No. 8234H (PWC)

Contact Persons:

Name:	Craig Covert	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4785	510-474-4748
E-Mail:	ccover@fremont.gov	nhughes@fremont.gov

Executive Summary: The purpose of this report is to recommend that City Council approve the plans and specifications for the 2009 Asphalt Overlay, City Project No. 8234H (PWC), waive minor irregularities, accept the bid and award the contract for construction to Granite Rock Company in the amount of \$5,833,856.20.

BACKGROUND: On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA), enacting the \$787 billion economic recovery package. The Metropolitan Transportation Commission estimated that roughly \$150 million would be available for the region through the Surface Transportation Program. Further, the City's share was determined by the MTC to be \$4,010,000. In addition, a Fund Exchange Agreement with Alameda County Congestion Management Agency (CMA) provided the City with additional federal funds in the amount of \$1,897,000 (in exchange for \$1,802,150 in Proposition 1B local funds). Therefore, the City submitted the application to the MTC reflecting the Local Streets and Road allocation formula amount plus the fund exchange amount for a total of \$5,907,000. This amount was formerly appropriated by the City Council at the April 7, 2009 meeting to the 2009 Citywide Asphalt Overlay Project, City Project No. PWC (8234-H).

Subsequent to April 7, 2009, \$770,000 of additional ARRA (i.e., Stimulus Funds) became available to the City, in addition to the original amount of \$5,907,000. Based on the Engineer's Estimate, staff believed that these additional ARRA funds could be used for this project. However, due to the favorable bids on this project, these additional funds are no longer necessary to fund this project. Staff is now working with CMA to instead utilize these funds for pavement rehabilitation work on Osgood Road, which will be bidding later this year.

The City's Engineering and Street Maintenance divisions jointly operate a pavement management system (PMS) that tabulates street surface conditions and recommends annual resurfacing and rehabilitation actions for cost-effective maintenance of the City's streets. The PMS recommends the following two classes of treatments:

- Preventive maintenance treatments, such as slurry seals, chip seals and cape seals, that improve the pavement surface and extend pavement life at a relatively low cost, and

- Rehabilitation treatments, such as overlays and pavement reconstruction, that restore a worn pavement to full serviceability at a relatively high cost by correcting the unavoidable deterioration of pavements caused by age, truck traffic, sunlight, rain and irrigation water.

The 2009 Asphalt Overlay, City Project No. 8234H (PWC), will rehabilitate a total of thirteen (13) City street sections totaling approximately 139,000 square yards of pavement surface. The table below lists the street section locations and lengths for this project.

SECTION	STREET NAME	FROM:	TO:	LENGTH, FEET
1	ARGONAUT WY	MOWRY AVE	WALNUT AVE	1,898
2	DOANE ST	GRIMMER BLVD	FREMONT BLVD	3,704
3	DURHAM RD	SABERCAT RD	I-680 ROW	285
4	LAS PALMAS AVE	MISSION BLVD	SEVILLE PL	1,892
5	MOWRY AVE W/B	BONNER AVE	PARKSIDE DR	1,588
6	PASEO PADRE PKWY	DURHAM RD	OAKRIDGE DR	2,471
7	PASEO PADRE PKWY S/B	OLIVE AVE	MENTO DR	507
8	PASEO PADRE PKWY	MENTO DR	CHADBOURNE DR	2,383
9	PASEO PADRE PKWY	SENIOR CENTER	STEVENSON BLVD	2,181
10	S. GRIMMER BLVD N/B	300' S OF TECH. DR	AUTO MALL PKWY	2,370
11	STEVENSON BLVD. W/B	DAVIS ST	FREMONT BLVD	1,450
12	WALNUT AVE	ARGONAUT WY	FREMONT BLVD	1,293
13	WALNUT AVE	PASEO PADRE PKWY	CIVIC CENTER DR	973
TOTAL				22,994

Staff retained the services of Nichols Consulting Engineers (Nichols) to perform testing on the existing pavement sections and to determine the appropriate rehabilitation strategies necessary to obtain a 20-year useful pavement life. A summary of Nichols' recommendations is as follows:

1. At localized areas where it is apparent the pavement base material has failed, remove and replace the failed section with up to 13 inches of hot mix asphalt.
2. On selected street sections, grind off the existing pavement surface course prior to placement of the overlay.
3. Overlay all streets with 2 to 4 inches of conventional hot mix asphalt and/or Rubberized Hot Mix Asphalt.

Rubberized Hot Mix Asphalt: As in previous years, Rubberized Hot Mix Asphalt (RHMA) will be used as the final wearing surface on the streets in this year's overlay project as recommended by Nichols. RHMA has a long history of successful application on city streets and state highways throughout California. The advantages of RHMA over conventional hot mix asphalt are well documented and include a quieter riding surface and a greater resistance to reflective cracking. This ensures the pavement will last longer and require less maintenance over the life of the pavement, thereby reducing the total life-cycle cost. In addition, RHMA reduces the stockpiling of waste tires and the

number of waste tires that enter landfills for disposal by instead, recycling and grinding the tires into crumb rubber granules and mixing them with asphalt cement and aggregate. A typical, two-inch thick, Rubberized Hot Mix Asphalt resurfacing project uses over 2,000 waste tires per lane mile. This project will divert approximately 23,000 tires from entering landfills.

Traffic Control: Due to the size, scope and number of streets included in this project, staff anticipates that residents and the traveling public will experience some inconvenience during construction. Individual traffic lanes will be closed to traffic in order to facilitate paving operations. To mitigate the impact of traffic delays on the public, the contractor is required to provide definitive traffic control plans. City staff will review all traffic control plans prior to construction and monitor traffic control work during construction to ensure all possible effort is made to minimize the impact to the public. Advance construction message signs informing the public of the upcoming roadway construction will be posted before each work zone a minimum of seven days prior to the anticipated construction. The signs will advise the public of possible delays due to construction and list the anticipated dates of work specific for each street. In addition, each affected business or residence will receive a flyer describing the project and required parking restrictions at least two weeks before work begins in their area. Follow-up notices will again be distributed no later than two days prior to the start of construction. The current project status and street improvement schedule will be posted on the City of Fremont website at all times.

During construction, electronic changeable message boards as well as temporary construction signs will be positioned in advance of the construction work zone at major cross streets alerting the public of the roadwork ahead and potential delays.

Pavement overlay work within the intersection of Paseo Padre Parkway and Stevenson Boulevard will occur sometime on Monday through Thursday nights between the hours of 9:00 PM and 5:00 AM and on Friday and Saturday nights between the hours of 8:00 PM and 7:00 AM. Also, pavement overlay work within the intersection of Auto Mall Parkway and South Grimmer Boulevard will occur on Monday through Thursday nights between the hours of 10:00 PM and 4:00 AM. During these times, the intersections will be shut down to expedite paving operations and traffic will be detoured around the intersections. The night work will reduce the impact to the motoring public during the daytime hours, when traffic volumes are greater. Signs informing the public of the intersection closures will be posted at least seven days in advance of the scheduled work. Businesses and residents near these intersections will also be notified at least one week prior to the closure.

Concrete Construction: The project will remove and replace several sections of concrete curb and gutter that have been damaged by the roots of adjacent trees and upgrade or construct new intersection curb ramps conforming to the guidelines of the Federal Americans with Disabilities Act (ADA) and State accessibility requirements. The project will also construct new concrete bus pads conforming to the latest City standards within the project limits. The bus pads will reduce the pavement deterioration due to the constant deceleration and acceleration of heavy loads of the buses at the bus stops. In order to provide a uniform edge to which to pave, repair of all concrete curb and gutter sections and construction of all curb ramps and bus pads will need to be completed prior to the start of paving activities.

The 2009 Overlay Project will reconstruct 27 existing curb ramps and 13 island passageways and construct 35 new curb ramps conforming to the latest ADA standards and improving pedestrian

accessibility within the project limits. A total of 14 new bus pads will be constructed at existing bus stops located within the project limits.

DISCUSSION:

Bid Results: Bids were received on July 1, 2009 for the 2009 Asphalt Overlay, City Project No. 8234H (PWC). The project's total base bid is for thirteen (13) street segments. Bids were received, as follows:

<u>RANK</u>	<u>BIDDER</u>	<u>BASE BID</u>
1	Granite Rock Company (DBA Pavex Construction Division)	\$ 5,833,856.20*
2	Gallagher and Burk, Inc.	\$ 6,239,000.00
3	Granite Construction Company	\$ 6,241,848.30
4	Top Grade Construction, Inc.	\$ 6,614,888.20
5	C. F. Archibald Paving, Inc.	\$ 6,939,783.30
	Engineer's Estimate	\$ 7,200,000.00

*mathematically corrected

As stated in the project Special Provisions, determination of the low monetary bidder was based on the Base Bid. The low monetary bidder, Granite Rock Company, is experienced in this type of project and is a responsible contractor.

Granite Rock Company's bid contains two minor irregularities: First, the lump sum "Supplemental Work" bid item (the \$500,000 amount is stipulated by the City and is the same for all bidders) was not extended to the "Total" column on the bid form; however, the \$500,000 is included in the Total Base Bid amount of \$5,833,856.20. The second irregularity is that the name of the certified arborist was not included on the subcontractor's list as required by the Special Provisions. As the total amount of the certified arborist's work is less than \$10,000, Granite Rock Company was not required to list the arborist subcontractor under that state subcontractor listing law. Granite Rock Company has provided the name of their certified arborist. As a general rule to be responsive the bid must conform to all the requirements of the bid documents. However, a bid that does not strictly conform to the bid specifications may be accepted if the deviation could not have affected the price of the bid or resulted in an advantage not allowed to other bidders. Here, the irregularities would not have affected the amount of the bid as they do not relate to items of work. Nor do they result in an advantage to Granite Rock not granted to other bidders. Neither one of these irregularities constitutes a clerical mistake that would have allowed Granite Rock to withdraw its bid without forfeiting its bid bond. Granite included the supplemental work amount in its bid total. The failure to list the arborist does not constitute a violation of state listing law and the contractor promptly provided the name upon the City's request. Staff recommends that the Council waive these two items as minor irregularities.

PROJECT COSTS: The following is a summary of total estimated costs for construction:

Staff – Design/Design Administration (3,600 hours)	\$ 550,000.00
Pavement Design Consultant (Nichols Engineering)	\$ 82,000.00
Construction Cost (Base Bid)	\$ 5,833,856.20
(Includes \$500,000 in contingency)	
Staff - Construction Mgt. & Inspection (5,500 hours)	\$ 750,000.00
Project Contingency	<u>\$ 250,000.00</u>
TOTAL Estimated Construction Costs	\$ 7,465,856.20

FUNDING: Funding available for the project is as follows:

Fund 131 State Gas Tax 2107, PWC 8234	\$ 331,000
Fund 194 ARRA Federal Funds, PWC 8234	\$ 5,907,000
Fund 501 General Fund, PWC 8234	\$ 1,008,000
Fund 508 ACTIA Measure B (Local Streets & Roads), PWC 8234	\$ 975,000
Fund 522 STP/CMAQ, PWC 8234	\$ 330,000
Fund 527 Proposition 1B, PWC 8234	<u>\$ 3,631,000</u>
TOTAL Estimated Available Funding	\$ 12,182,000

Based on the contract amounts and project cost estimates, there are sufficient funds budgeted for this project without using any General Fund dollars. The remaining funds will be available for subsequent pavement rehabilitation projects, the next of which is scheduled for construction in 2010.

ENVIRONMENTAL: In April 3, 2009, the California Department of Transportation determined that all conditions of the June 7, 2007 Programmatic Categorical Exclusion Agreement with the Federal Highway Administration have been met on the 2009 Asphalt Overlay Project, 8234-H (PWC), in conformance with the guidelines for the National Environmental Policy Act (NEPA). This project is exempt from review under the California Environmental Quality Act (CEQA) pursuant to SEQA Guidelines section 15301(c)

ENCLOSURE: None

RECOMMENDATIONS:

1. Approve the plans and specifications for 2009 Asphalt Overlay, City Project No. 8234H (PWC).
2. Waive minor irregularities and accept the bid and award the construction contract for 2009 Asphalt Overlay, City Project No. 8234H (PWC), to the lowest responsible bidder, Granite Rock Company in the amount of \$5,833,856.20 and authorize the City Manager or designee to execute the contract.

***2.4 CONTRACT WITH ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY FOR SCHOOL-SITE SERVICES**

Approval of New Contract with Alameda County Health Care Services Agency for School-site Mental Health and Case Management Services

Contact Person:

Name:	Iris Preece	Suzanne Shenfil
Title:	YFS Administrator	Director
Dept.:	Human Services	Human Services
Phone:	510-574-2128	510-574-2051
E-Mail:	ipreece@fremont.gov	sshensif@fremont.gov

Executive Summary: The purpose of this report is to recommend the City Council authorize the City Manager to execute a new contract for a maximum of \$185,000 between the City and Alameda County Health Care Services Agency (ACHCSA) for the Human Services Department to develop a demonstration project that increases school-site mental health services by offering integrated mental health and family case management services. The demonstration project will target the Kennedy High School attendance area and Robertson Continuation High School. Specific schools which will receive services include Kennedy High School, Walters Junior High, Brier Elementary, and Robertson Continuation High School. Staff also recommends the City Council appropriate County funding and Medi-Cal revenue to support this project.

BACKGROUND: The Alameda County Board of Supervisors has allocated Tobacco Master Settlement Funds and one-time only funding to support planning and start-up of new school-site health services in each County Supervisor's District because national research shows improved access to health services at school sites measurably improves school success and reduces at-risk behaviors that lead to delinquency and other social problems. ACHCSA has been working throughout Alameda County for a number of years to develop sustainable school-site and school-linked health programs that improve school success. In Fremont, the City, Fremont Unified School District (FUSD) and the County have formed the Fremont School Health Initiative. On February 4, 2008, a presentation was made at the joint City Council/FUSD School Board meeting about this collaborative effort. Since that time, several projects have been undertaken, including a needs assessment, in which students and parents identified increased mental health services for students at school and increased case management for families as two priority health service needs.

DISCUSSION/ANALYSIS: The program model builds on the City of Fremont's Youth and Family Services' Healthy Choices Program, which utilizes volunteer clinical interns to provide mental health services to students at Fremont school sites; and the Family Resource Center's Family Support Program, which utilizes a multi-disciplinary team to provide support to families in crisis and assure successful outcomes through effective service integration.

With start-up funding from the County, the Human Services Department will hire temporary staff, a licensed counselor and a case manager, to work at schools in the Kennedy High School attendance area and Robertson Continuation High School during the school year. These staff will serve as team leaders for clinical and social work interns working at the school sites. They will also help assure effective

service coordination by working with the school principals to form multi-disciplinary teams at each school, serving on the multi-disciplinary teams, coordinating cases assigned to the clinical interns working at the school sites, and providing direct services to students and families. Assuming the project proves to be successful and sustainable within the Kennedy High School attendance area schools and Robertson Continuation High School, the program has the potential to gradually expand throughout the district.

FISCAL IMPACT: ACHCSA has approved an annual allocation of \$100,000 in Tobacco Master Settlement funding for the demonstration project. In addition, ACHCSA has approved \$300,000 in one-time-only secured funding for use over the next 4 years. Staff proposes to use \$85,000 of the \$300,000 one-time-only allocation for the initial year of the demonstration project. The costs of this demonstration project, including overhead costs, will be completely covered by the ACHCSA funding and anticipated revenue from two Medi-Cal sources currently utilized by the Human Services Department: Targeted Case Management (TCM) and Early Periodic Screening Diagnosis and Treatment (EPSDT) funding. Staff developed a conservative Medi-Cal revenue estimate based on current revenue generated by staff and the anticipated percentage of Medi-Cal reimbursable clients.

School Site Services Demonstration Project Budget

Revenue Source

ACHCSA – Initial allocation of \$300,000 one-time-only funds	\$85,000
ACHCSA – Annual Tobacco Settlement Funds	100,000
EPSDT	21,671
TCM	10,850
Total:	\$ 217,521

Salary/ Operating Expenses

City Staffing	\$174,416
Operating	22,105
Overhead	21,000
Total:	\$ 217,521

In anticipation of this funding, the \$85,000 in ACHCSA one-time-only funding and the EPSDT Revenue was appropriated as part of the FY 2009/10 Adopted Budget, approved by the City Council on June 9, 2009. Staff requests the City Council appropriate an additional \$100,000 in tobacco settlement funding and 10,850 in TCM funding for the demonstration project.

ENVIRONMENTAL REVIEW: None

ENCLOSURE: None.

RECOMMENDATION:

1. Authorize the City Manager or designee to execute a contract totaling \$185,000 with Alameda County Health Care Services Agency to implement expanded mental health and case management services at Fremont school sites.
2. Appropriate \$100,000 in Tobacco Settlement funding to Fund 170, and \$10,850 in Targeted Case Management funding to Fund 565.

5.1 MAIN STREET VILLAGE--3615/3657 MAIN STREET AND 41037/41045 HIGH STREET IN THE IRVINGTON PLANNING AREA – PLN2009-00153
Public Hearing (Published Notice) to Consider Planning Commissions Recommendation to Approve a General Plan Amendment to Change the Land Use Designation from Medium Density Residential (15-18 Dwelling Units Per Acre) to High Density Residential (27-35 Dwelling Units Per Acre), Introduction of an Ordinance Rezoning from Planned District (P-84-12) to Multi-Family Residence District (R-3-35), Site Plan and Architectural Review and Preliminary Grading Permit to Develop a 1.6-Acre Site with a Residential Project Including 64-Units and a Conditional Use Permit to Allow 3,400 Square Feet of Ground Floor Office Space Within the Project. A Mitigated Negative Declaration has been prepared and circulated for this project in accordance with the requirements of the California Environmental Quality Act

Contact Person:

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Executive Summary: The proposed project consists of a General Plan Amendment, a rezoning to R-3-35, a Conditional Use Permit, Site Plan & Architectural Review, and a Preliminary Grading Plan, to permit the development of a 1.6 acre site with 63 affordable units, 1 manager's unit and 3,400 square feet of ground floor office space for Abode Services, the parent organization for Allied Housing, the property owner. No buildings or structures are currently located on the subject lands. The project proposed by Allied Housing is to develop supportive housing for very low and extremely low income individuals and households. Staff recommends that the City Council adopt and approve the requested entitlements and Mitigated Negative Declaration as shown in Exhibits "B", "C", and "D" subject to the findings and conditions in Exhibit "E". On June 25, 2009, the Planning Commission voted 5-0-0-2 (absent) to recommend City Council approve the project.

BACKGROUND: The current zoning of the subject site is P-84-12, a Planned District development that was approved by the City Council on February 26, 1985. The approved proposal was for 24 townhomes and was never acted upon. The land was vacant at the time of the Planned District approval and remains vacant.

The Agency Board approved in concept the acquisition funding for the site in July 2008, and formalized the approval in October 2008. The applicant submitted a conceptual site plan and application materials in January 2009 and staff began reviewing the proposal. In April of 2009, the applicant became aware that the typical federal funding streams available to projects of this nature were going to be offered only once, rather than the normal offering of two annually. Therefore, the timeline for the project became compressed to have all land use approvals, environmental documents and appeal periods completed by the federal deadline of August 17, 2009. In addition to having only one round of funding this year, more significantly to the proposed project, the specific Federal Stimulus funds sought include preferences given for proposals that include special needs projects, which the current proposal does; as well as an

offer of guaranteed minimum funding levels in the form of federal funds investment should the project not find outside investors. These factors are contributing to the time constraints identified for the project to receive entitlement prior to the federal deadline, as the aforementioned incentives are not likely to be repeated in future funding streams. Both the applicant team and staff have worked in concert diligently to achieve this ambitious goal.

Additionally, the Bay Area Council Economic Institute published a Final Report entitled “Bay Area Economic Recovery Workplan.” The Main Street Village project is mentioned by name under Chapter V-Housing. It is one of two affordable housing projects listed under the “Strategic Projects for Housing” section of this chapter. As such, the project is receiving regional and national recognition for its’ contribution to the affordable housing stock in the area, as well as aiding the nine-county Bay Area association with qualification for and allocation of federal stimulus monies under the American Recovery and Reinvestment Act of 2009.

Project Description:

The proposed project consists of a General Plan Amendment, Density Bonus, a rezoning to R-3-35, a Conditional Use Permit, Site Plan & Architectural Review, in conjunction with a Preliminary Grading Plan for the development of two primarily residential buildings, both being three stories in height. The applicant’s description of the proposed project is enclosed (Informational Item #6).

Proposed Project Includes:

- 63 supportive housing units for the very-low and extremely low income individuals and households and one manager’s unit (at a density of 40 units per acre with a density bonus) with 17 studio units, 17 one-bedroom units, 20 two-bedroom units and 10 three-bedroom units.
- 3,400 square feet of ground floor office space.
- 59 on-site parking spaces will be provided (53 – sub-terrain parking garage and 6 at grade parking spaces).
- The parking garage will be accessed off of Main Street. Access will also be provided off High Street near Building Two for the at grade parking. Circulation through the site will only be permitted for emergency vehicles.
- Approximately 18,700 square feet of common area is proposed, including a community room, laundry room, maintenance workshop and main open space area in the middle of the development.
- Each unit has 100 square feet of storage space off the balconies and patios.

Project Analysis:

General Plan Conformance:

The proposed General Plan Amendment from Medium Density Residential (15 to 18 dwelling units per acre) to High Density Residential (27 to 35 dwelling units per acre) for the 1.6 acre project site is consistent with the General Plan policies and goals outlined below:

Housing Goal 3: *Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the City.*

Analysis: The project implements this goal in that the proposed development would allow for the construction of 63 dwelling units for very low and extremely low incomes households. It should also be noted that the rental price for these units would be restricted by agreements.

Policy LU 1.1: *Residential use is the primarily allowed use in a residential designated area. The type of residential use depends on the permitted density and other criteria to protect neighborhood character and the safety and welfare of residents.*

Analysis: The current underlying General Plan land use designation for the entire project site is Medium Density Residential, 15 to 18 dwelling units per acre, whereas the Amendment would redesignate the lands to a High Density Residential, 27 to 35 dwelling units per acre designation. The increase in density will facilitate an additional 34 dwelling units, above which would be allowed under the current designation. The applicant recognized early on in the process that in order to achieve the desired density for 64 units that subterranean parking would be necessary due to the parcel size and configuration. Staff has worked with the applicant to ensure the proposed project utilizes a design that preserves the surrounding residential units while also incorporating the principles of the Irvington Concept Plan. Through the development of appropriate transitions (e.g. by building setback, massing, height limitations, open space areas etc.), the applicant proposes an increase in density while limiting the impacts to the existing surrounding neighborhood.

Policy LU 1.12: *To the maximum extent feasible, play areas and open spaces shall be located to avoid conflict between residents attempting to reach these facilities and vehicular traffic.*

Analysis: The applicant is proposing 14,365 square feet of open space area in the center of the development as the main outdoor activity area for the project. This open space area is to include such amenities as a rubberized play area, two small sports courts, basketball hoop, and a couple of small lawn areas. Access to the open space area occurs via delineated pathways from both buildings, creating safe pedestrian access.

Irvington Concept Plan Conformance:

The Irvington Concept Plan addresses the area of the proposed development in that the Main Street streetscape is envisioned to develop promoting pedestrian-friendly sidewalks and urban style building configurations. Landscaping and sidewalk bulb outs are intended to assist in the development of a “main street” look to future projects located in this area. The future BART station in Irvington will aid in the revitalization of the area being more in use as pedestrian thoroughfare, and will allow retail type businesses to locate in the neighborhood. Currently, the area is more of a service-oriented business location. The proposed project includes a service business on the ground floor. The sidewalks proposed as part of this development are 12 feet in width with bulb outs at the corners of the Main Street frontage. There is no building setback for the Main Street Building One, and the 12 foot sidewalks extend around the corner, where they taper off at the existing residential homes on High Street.

Redevelopment Plan Conformance:

The proposed project is located within the Irvington Redevelopment Area. The project is consistent with the Irvington Redevelopment Plan General Goal #4 which cites “the creation of residential opportunities for various segments of the community, including the provision of quality affordable housing within and outside the Project Area.” Therefore, this General Goal will be met by developing the project as proposed.

Zoning Regulations:

As set forth in Section 8-2751.1 of the Fremont Municipal Code (FMC), multi-family residential developments are allowed in the proposed R-3-35 district subject to a rezoning. The current zoning, P-84-12, allows the site to be developed with 24 townhomes. The R-3-35 zoning designation allows for flexibility and exceptions for general lot and siting standards through the Site Plan and Architectural Review process when the approving body can find that the intent of a certain standard can be met through alternative means, except where the provision is already permitted based on the proposal of an affordable housing project. In general, the project complies with the standards and guidelines, with some exceptions due to site constraints.

The table below outlines the R-3-35 development standards and how the proposed project is either in conformance or deviates from those requirements.

Type of Standard	Permitted	As Proposed
Maximum Building Height	52 feet	Building One: 34 feet, 7 inches high Building Two: 30 feet high
Minimum Lot Size	6,000 square feet	69,696 square feet (1.6-acre)
Minimum Lot Width	60 feet	83 feet (at narrowest point)
Street Frontage	35 feet	Main Street frontage: 362 feet wide High Street frontage: 74 feet wide
Front Setback	20 feet, but may be reduced when the reduction fosters a pedestrian-oriented environment or neighborhood setting for the area.	0 feet: per the Irvington Concept Plan which envisions Main Street residential buildings to be setback only to allow for stoops, porches or other street interactions for the front doors.
Interior and Rear Setbacks	10 feet	10 feet rear setbacks in all areas on site except for two: 6 feet along the western boundary adjacent to Lincoln Avenue to facilitate the drive aisle and subterranean garage entrance; and 5 feet 6 inches along the southern boundary adjacent to the at-grade parking that abuts the existing single family residential home fronting on High Street and is separated from that home by a 6 foot masonry block wall.
Lot Coverage	50 percent; Affordable project: 70 percent	36 percent
Minimum Common Open Space Area	500 square feet for up to 5 units, plus 50 square feet for each additional unit; one dimension at least 15 feet; Affordable project: 500 square feet for up to 5 units plus 25 square feet for each additional unit.	14,365 square feet ($500 + 1,475 = 1,975$ square feet required for affordable project) Exceeds requirement by 12,390 square feet.

Minimum Private Open Space Area	Balconies: minimum 60 square feet, the least interior dimension 6 feet; Patos: minimum 100 square feet, the least interior dimension of 10 feet.	Balconies: Average of 132 square feet each (25 balconies total) Patos: Average of 137 square feet each (10 patios total)
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Exception requested under the R-3 Standards:

Side yard encroachments: The applicant is requesting a deviation to the general 10-foot setback that is required from the interior lot line for the development of the drive aisle proposed on the western boundary of the site, and is proposing a 6 foot setback for approximately 100 linear feet as the 26 foot wide drive aisle progresses to the interior of the site. The adjacent use is a senior assisted living facility that has an approximately 15 foot setback from the shared property line and is buffered from the subject site by an existing 5 foot masonry wall. Staff supports this exception, as the odd shape of the lot dictates the design to a certain degree and the desire for a unified building frontage along Main Street is facilitated by this reduced setback.

The applicant is also requesting a deviation to the 10-foot setback for the interior lot line on the southern boundary of the shared property line with the existing single family home on High Street to allow for three at grade parking spaces. At present, the applicant is only proposing six at grade parking spaces, all of which are intended to serve Building Two, as Building One has the subterranean garage. The driveway of the adjacent neighbor abuts this area, and is separated from the proposed parking spaces by a proposed six foot tall masonry wall. Staff supports this exception to the setback requirement since it facilitates more at grade parking and is appropriately screened from the neighbor with a masonry wall.

The R-3 zoning designation conditionally permits uses that are permitted or conditionally permitted in either neighborhood commercial or office commercial zones, provided the use is located on the first floor of a multi-family residential building that is three stories or taller and located on a parkway, arterial or collector street. A component of the project is the inclusion of a 3,400 square foot office space on the ground floor of Building One at the corner of High and Main for Abode Services, the parent organization for Allied Housing, the property owner. This space will be designated as administrative offices for this organization.

Because the applicant is proposing 64 housing units on the 1.6 acre site where only 53 units are permitted, a density bonus is needed. Staff supports the applicant's request since it meets and exceeds both State law and local ordinances.

Density Bonus Ordinance: In January 2003, the provisions of State law regarding Density Bonus were amended (Assembly Bill 1866). In response to this amendment, in September of 2003, the City Council adopted a Density Bonus Ordinance and an Affordable Housing Incentives Ordinance for consistency with State law and to implement Housing Element Program 12 and Land Use Element Policy LU-1.6. The purpose of the Density Bonus and Affordable Housing Incentives Ordinance is to provide developers with a density bonus of 25 percent over the maximum permitted density and additional incentives or concessions (e.g. exceptions) to the general development standards, making the development of a residential project more economically feasible and to encourage the production of affordable housing units in the City. To be considered for a density bonus and the additional incentives

or concessions, the developer must agree to all the regulations set forth in State law and the Ordinance, such as a “Density Bonus Housing Agreement” to ensure that the target units remain affordable for at least a specified time duration (depending on type of housing proposed, rental or for-sale units). Additionally, the developer must propose a project involving five or more units and must agree to provide the following:

- 20% of units to lower income households; or
- 10% of units to very low income households; or
- 20% of units to moderate income households as part of a newly constructed condominium project; or
- 33% of units to low or moderate income households within a condominium conversion project; or
- 15% of units to lower income households within a condominium conversion project; or
- 50% of units as Senior Citizen Housing.

State law and the Ordinance provides that a minimum of a 25% Density Bonus is required to be granted on top of maximum density allowed for a given site and that fractions of units are rounded up. A Density Bonus of greater than 25% is treated as an additional incentive. No General Plan or zoning changes are needed to allow for increased density.

The Density Bonus Ordinance not only provides a housing developer with a Density Bonus of 25% over the maximum permitted density, it also provides incentives or concessions for the production of housing for very low, lower income households, senior households or moderate income households, including condominium projects. “Additional incentives or concessions” means such “regulatory concessions as specified in the California Government Code, which includes, but is not limited to, an additional density bonus, reduction of site development standards or zoning code requirements, direct financial assistance, approval of mixed use zoning in conjunction with the housing development, or any other regulatory incentive which would result in identifiable cost avoidance or reductions that are offered in addition to the Density Bonus.”

The proposed project exceeds the minimum requirements set forth in State law and the Ordinance for the consideration of a Density Bonus of 25% over the maximum permitted density. The 25 percent Density Bonus over the maximum permitted density on the site (maximum 35 dwelling units per acre, with the proposed General Plan Amendment) would allow the development of 64 units on the 1.6-acre site, where otherwise a maximum of 53 units would only be permitted.

Although only 10 percent is required to be dedicated to very-low affordable housing units, the proposed project is in excess of the 10 percent for very-low and/or extremely-low income households. The applicant also has agreed to enter into a 55-year binding Housing Agreement with the City for the City’s affordable unit count (Condition #14). Under the City’s Density Bonus Ordinance, a longer period of time may be specified due to the construction/mortgage financing assistance program sought (the minimum duration would be 10 years for a “Condominium project” and 30 years for all other “housing developments”).

Parking:

The aforementioned zoning setback deviations could be considered a concession, allowable under the Density Bonus, as well as the proposed parking reduction. The project proposes a subterranean garage

with access from Main Street to provide 53 parking spaces, including 35 standard spaces, 16 compact spaces and two accessible spaces. An additional six parking spaces, including one accessible space will be provided at grade with access from High Street. The total onsite parking proposed for the project is 59 parking spaces. Bike parking for eight bikes is provided adjacent to Building Two. Staff is working with the applicant to find other locations on-site that may be utilized for additional bicycle parking. (Condition #24)

The City of Fremont Parking Ordinance requires 121 parking spaces for the proposed project with 64 residential units and 3,400 square feet of commercial office space.

The project is deficient by 62 parking spaces, however, under the Fremont Municipal Code Parking Ordinance, Section 8-22003, the City may grant a reduction in parking spaces if the anticipated tenancy includes affordable and special needs housing based on quantifiable evidence that the use is not likely to require the same levels of parking as standard residential development. The proposed project proposes 10 units to be Mental Health Service Act (MHSA) tenants with special needs and a goal of 5 units for transitional youth. 63 of the 64 residential units will be for very low and extremely low-income individuals and families. The anticipated requirement for motor vehicle parking for the tenants of this supportive housing project is estimated to be much lower than in standard residential developments.

Furthermore, the Parking Ordinance allows for the reduction in parking spaces for developments in close proximity to alternative transportation infrastructure, amenities and on-street parking. The project site is within 200 feet of public transit services and 450 of the future BART station, providing the tenants with viable transportation alternatives. The project site is also within 200 feet of commercial retail and personal service uses and there are up to 15 on-street parking spaces available directly adjacent to the project on Main Street and High Street. The Parking Ordinance also allows for joint use of available parking for residential and commercial uses for mixed use projects as the normal demand for parking between the two uses are not anticipated to coincide or overlap with each other. As such the reduction of 62 parking spaces will not have a significant impact on the adjacent properties or roadways.

The proposed reduction in parking spaces is illustrated in the table below.

Type	Size/Units	Required Parking			Proposed Unrestricted Parking	
		Tenant	Guest	Total		Total
Studio	17	17	8.5	25.5	Garage parking	53
1BR	17	17	8.5	25.5	At-grade parking	6
2BR	20	30	10	40		-
3BR	10	15	5	20		-
Sub-Total	64	79	32	111		59
Office Space	3,400 SF	11	-	11	On-street	11*
Sub-Total		11	-	11	On-street	11*
TOTAL		90	32	121		70

*These 11 spaces are being created as off-street parking along Main Street and are not counted toward the total provided parking count as a result of the project.

Staff believes that while the project does not completely meet the City's general parking standards, sufficient off-street parking (and some on-street parking, including that which will be created as a result of the project) is available. Under the parking provisions of Section 8-22003(a)(2)(d) of the Zoning Ordinance (Article 20), the City may reduce the parking requirement for a particular project involving residential uses if it finds that there is sufficient on-street parking to meet the needs of the neighborhood and when at least one of the four specified findings qualifying for a reduction can be met. Staff finds that two of the four specific findings of Section 8-22003 can be made, as follows:

- i. **Due to the use's proximity to alternative transportation infrastructure and service, including but not limited to BART, Amtrak, and other passenger rail services, bus service, or similar, the use is likely to require a lower level of parking than is required by similar projects not proximate to alternative transportation because residents will have viable transportation alternatives available.**

Analysis:

The proposed project is served by bus lines 210, 212, 215, 218, 328, and 329. Additionally the project is approximately 450 feet from the proposed future Irvington BART station and line. The site is also located approximately 500 feet from Washington Boulevard, which is defined as an arterial street in the General Plan.

- iii. **Due to the anticipated tenancy, including but not limited to affordable units, senior citizen units, single room occupancy (SRO), and efficiency units, and special needs housing, and based on quantifiable evidence, the use is not likely to require the same levels of parking as standard residential development. This finding shall only be used for projects that have entered into a binding agreement with the City or other public agency guaranteeing the project will serve the identified tenancy type.**

Analysis:

63 of the 64 residential units will be restricted for low, very-low and extremely-low income individuals and households. The applicant has submitted data to staff (Informational Item #3) to support the claim that at least five other built affordable housing facilities in the City and neighboring cities on average establish less than $\frac{3}{4}$ of the general parking ratio of a one space per unit requirement. As well, the applicant has provided staff with a report entitled "Parking & Housing: Best Practices for Increasing Housing Affordability and Achieving Smart Growth", sponsored by The Non-Profit Housing Association of Northern California, Inc. and underwritten by The Sustainable Communities Leadership Program and University of California at Berkeley Program on Housing and Urban Policy. The study, which will be illustrated to the Council in the applicant's presentation, shows a correlation between overall household income and vehicle ownership as it relates to the Average Median Income of an area. Based upon the provided data regarding the existing supportive housing projects developed and or run by Allied and its partner, Mid-Peninsula Housing Coalition, and the information contained in the above-referenced report, staff finds that the 0.88 space per unit ratio proposed for the 64 units of affordable housing is appropriate and sufficient.

Because of the mixed-use nature of the project, staff recommends that all parking should be shared in common. This will ensure that the parking facility is utilized to its most effective potential, avoiding the potential for future exclusive parking problems. Condition of Approval #3 addresses this arrangement.

Inclusionary Housing:

The entire project can be designated as affordable, as 63 of the 64 units are designated for very low and extremely low income households and individuals. The remaining unit is reserved for the caretaker of the property. Also included in the unit count are 10 units designated for participants in the Mental Health Services Act programs.

Design Analysis:

Site Planning:

The project site is located in the Irvington Planning Area and the Irvington Redevelopment Area. The site is located in a developed, urban area, surrounded by single-family residences, senior housing, light industrial uses, commercial uses, and the former Union Pacific Railroad tracks. The project site has frontage on two public streets, Main Street and High Street, both classified as Collector streets in the Fremont General Plan. Main Street generally runs in a north-westerly direction. High Street generally runs in an easterly direction. Currently, the two streets terminate at the former Union Pacific Railroad (UPRR) tracks, the remains of which also provide the eastern boundary of the project site. On High Street, the project site wraps around three single-story, single-family residences that also front upon High Street. North of the site on High Street, the site abuts additional single-story, single-family residences. These single-family residences are zoned Garden Residential R-G-29 and designated Residential Medium 15 to 18 units per acre in the Fremont General Plan. Across (north of) High Street, a light industrial complex of contractors, machine shops, auto repair, and wholesale businesses operate in a 1½-story building on a site zoned and designated Light Industrial (I-L). Along the site's northwesterly and southwesterly boundaries, it abuts an existing single-story senior assisted living facility, which fronts onto Lincoln Street and is zoned Garden Residential R-G-29 and designated Residential Medium 15 to 18 units per acre. Across (south of) Main Street, uses include single-family residences, auto repair, and service uses (e.g., carpet cleaner, hair salon). The parcels south of Main Street are designated and zoned Community Commercial within the Irvington Overlay District, C-C(I). Some of the parcels on the south side of Main Street are through parcels with street frontage on Washington Boulevard and Main Street. These uses are located in one- and two-story buildings that generally front onto Washington Boulevard. East of the former UPRR tracks, the vacant parcel has an approved 196 unit project as Planned District P-2005-131 with a General Plan designation of Residential Medium 11 to 15 units per acre, Residential High 35 to 50 units per acre, and Private Open Space.

Currently, a sizeable public works project is in progress to create a railroad grade separation at Washington Boulevard, located 300 feet southeast of the site. Completion of the railroad grade separation will facilitate extension of BART from central Fremont (the current end of the line), south to Warm Springs in southern Fremont. As a result of these efforts and planned development east of the site, the UPRR line that used to abut the easterly boundary of the site was relocated farther east late in 2008. Access to the future BART Station would be provided by extending High Street south around the eastern edge of the project site (on the area formerly used by the UPRR tracks). High Street would extend south under Washington Boulevard to the Irvington BART Station, which would be constructed at some time

in the future directly south of the Washington Boulevard grade separation. The project site is located approximately 450 feet northwest of the future Irvington BART Station.

The project site's street frontage on both High and Main Streets is unimproved, lacking curb, gutter, parkway strip, and sidewalk. The surrounding neighborhood streets have an intermittent pattern of improvements to City specifications. The area also has utilities located in overhead conduits. Improvements will be completed with this project, including street alignment and sidewalks to City standards.

The project site, once combined, is an irregular shaped collection of six separate parcels that will be combined through a lot combination application, which is a ministerial action by City staff. The design for the approximately 1.6 acre site includes a through access that connects the two street frontages by way of an internal circulation system restricted to emergency and fire vehicles and potentially garbage collection trucks. Access to the subterranean parking garage is off of Main Street. The at-grade parking on site is accessed from the High Street frontage, and includes a turn around area should parking not be available in those spaces. Bicycle parking is located adjacent to Building Two and likely other areas, as the plans develop through the building permit stage.

Building One, which fronts onto Main Street, is designed to house 47 units, with 1,210 square feet on the ground floor designated as a community room and kitchen and storage area. The ground floor also has 1,260 square feet designated for tenant support services, and includes offices, a computer room and a meeting room. Building Two is designed for 17 units and also houses the facilities' laundry and maintenance workshop, which account for approximately 820 square feet. Building Two abuts the property line to the northwest and has a street frontage on High Street of approximately 74 feet. Both buildings have orientation towards the interior of the site and help to provide definition to the open space area that is proposed in much of the interior of the development. The open space area is approximately 14,365 square feet and includes a planting area, rubberized play surface, lawn area and seating. The intent is to provide a safe and accessible space for gathering, playing and community interaction for the site in a centralized location for enhanced security and feeling of home. Private open space areas are provided for most of the units in the project through balconies and patios.

Architecture:

The applicant proposes to construct two, three story buildings on an approximately 1.6 acre site (consisting of 6 consolidated parcels). Building One, 34 feet 7 inches high, will front onto Main Street. Building Two, 30 feet high, is oriented towards the interior of the site and has a building side elevation of approximately 36 feet wide that fronts onto High Street.

The architecture can generally be described as modern and urban, highlighting the project's location in a mixed use area where existing uses are residential, light industrial and service-based. The materials proposed utilize a concrete base, painted cement plaster trims and wood panel accents. Windows are present along the Main Street frontage that creates an urban pedestrian experience of street interaction. Aluminum windows and doors are proposed, with painted metal awnings over balconies on the second and third floors. Balcony railings are wooden slats. The color scheme is warm and defined to balance the use of metal and wooden accents. Building One overhangs approximately 2 feet over Main Street. Coupled with the popped out balconies, the overall look is to enhance the street presence. Building Two is an L-shaped structure that has more of a residential character to it, in contrast to the urban look of Building One.

The corner of Main and High has a recessed rounded entryway for the office space that will inhabit it, that includes double glass doors and rounded metal balconies on the second and third floors. A curb ramp and bulb out are at the corner of Main and High, to complete the pedestrian friendly development of the site to the Irvington Concept Plan's standards. Through ongoing design discussions between staff, the applicant and community members, a number of enhancements and architectural embellishments have been decided upon and will be incorporated into the final design. Although not reflective of the plans included as part of the Council packets, these changes can be seen in the hanging exhibits provided by the applicant as well as the applicant's presentation at the Council meeting. The enhancements can be summarized as follows:

- Introduce score lines in the concrete base
- Raise the sill in the upper floor windows
- Introduce a small "cornice" at the top of the stucco portions of the walls
- Recess the windows in the stucco walls
- Introduce score lines /reveals on the upper part of the stucco walls
- Explore color variations in finish materials
- Explore display windows on ground floor at building corner
- Review balcony railing design-possibly painted perforated metal panels

For a more thorough summarization of the Planning Commission hearing regarding this project, refer to the section entitled "Public Notice and Comment/Planning Commission Hearing".

Green Building Technologies: Conventional building and remodeling practices use a lot of natural resources and create a lot of waste. Debris from building construction and demolition accounts for more than 21% of the materials disposed in Alameda County landfills. "Green building" means taking steps to create buildings that are safe and healthy for people and that protect our environment. While specific methods and products may vary from project to project, the basic principles of green building apply to all types of new construction and renovation.

The applicant proposes to implement technologies and practices of green building, using recycled content material, reuse of materials, and waste reduction, among others. The project goal as stated by the applicant is to achieve a Green Point Rating of 109 from Build It Green whereas the City has established a 50-point minimum rating. As an example, to achieve this goal the following are considered for project implementation with several other green/sustainable features that will be defined and assured during the construction design phase:

- Recycling of demolition and construction waste;
- Planning for on-going recycling of trash;
- Selecting interior material which includes recyclable materials and those which improve indoor air quality;
- Designing of the exterior envelope will focus on providing shading for windows to minimize heat gain, as well as providing a well insulated building with thicker walls and roof insulation;
- Installation of Energy Star appliances and high efficiency toilets in all locations; and,
- Pre-wiring and planning for photovoltaic panels so that they can be incorporated if the budget allows or additional funding is provided.

Open Space/Landscaping:

Approximately 17,000 square feet of landscaping is proposed onsite in a system of perimeter planting areas, sidewalk borders, and Stormwater treatment areas. A main open space area links the two buildings. This area provides amenities for both active and passive activities. Included in the design of this central open space is a half court basketball area, raised beds for vegetable gardening, a rubberized play area, lawn and benches. Concrete pavers along the perimeter frame the open space, a row of Italian Cypress reinforce the walkway and provide a green wall, and large shade trees will provide a ceiling for this special place within the development.

The proposed development allows for the successful preservation of Tree #4 (Locust) as well as the two (2) California Pepper trees along the High Street project frontage. The curb is being realigned to preserve the two large California Pepper trees located in the right of way along High Street. The arborist report rates the health of these trees as fair and so additional investigation shall be performed to verify that these trees can be preserved as part of the development. Should either or both California Pepper trees within the right of way need to be removed the applicant shall mitigate the loss of the tree(s) by replanting a 72 inch box tree for each tree. Nineteen (19) 24" box trees shall be planted as mitigation for loss of the existing 19 trees (Condition #51). The street trees shall be 24" box size, while the balance of trees onsite may be 15-gallon-sized.

A total of twenty-two trees, representing seven species, were evaluated in an arborist report for this site, prepared by Forestreet Company in August 2008.

The applicant has proposed a total of 95 additional trees onsite. This quantity exceeds the 35 required and will in most likelihood be reduced during design development as a result of matching the quantity of trees with the required planting space. Columnar trees will be planted along the perimeter to provide a green edge for the project, large trees shall be carefully located for shade, and smaller accent trees shall be added for interest and where there is insufficient room to add a larger tree. Shrub and groundcover plantings shall be attractive, drought tolerant, and spaced appropriately to reduce required maintenance. In conjunction with the trees overhead, the shrubs and groundcover shall provide additional interest, and soften hard edges of the constructed environment. The applicant is proposing the use of green screens planted with vines and tree wells along the Main Street elevation, in the public right-of-way, maintenance and installation of which are solely the responsibility of the applicant and managing company. (Condition #13) The applicant will be required to meet the minimum number of points on the Bay Friendly Landscape Scorecard and all basic required practices on the Bay Friendly Landscaping Scorecard, as defined by stopwaste.org. (Condition #42)

The Bay-Friendly Landscape Program (BFL) is a holistic approach to landscape design and maintenance that works in harmony with the natural conditions of the San Francisco Bay watershed. Landscapes developed with the program prioritize criteria such as local climate, soils and topography. The goal is to develop landscapes with greater local pest resistance, less maintenance, less use of resources, and less generated waste (caused by constant pruning).

View Impacts:

The project site is not located near a scenic highway or any scenic vistas or resources, as identified in the Fremont General Plan. The proposed project will have no significant impact on existing views.

Circulation:

Trip calculations are based on standard ITE survey rates for a conservative analysis of trip generation potential. As a deed restricted low income affordable housing project, the trip generation rate will likely be substantially lower than ITE rates that are based on standard development surveys. The existing approved town home use (P-84-12) would generate approximately 141 weekday trips and 12 P.M. peak hour trips. The proposed project would generate approximately 510 weekday trips and 48 P.M. peak hour trips, which is a net increase of 369 weekday trips and 36 P.M. peak hour trips from the approved project. Based on the low number of trips the proposed mixed-use project is estimated to generate, it would not adversely impact Main Street or High Street. This conclusion is based upon the designation of the street as a residential collector that operates well below capacity.

The Fremont General Plan establishes an acceptable signalized intersection level-of-service at LOS D. LOS D represents busy intersections with short peaks but no long-standing vehicular queues are formed. In 2008, as part of the comprehensive General Plan Update, intersection LOS calculations were completed, which included the Fremont Boulevard/Union Street/Washington Boulevard intersection near the project site. A report documenting the findings of the 2008 intersection calculations was published in June 2008 as the General Plan Update 2030 Transportation Background Report. Based on this 2008 report, the Fremont Boulevard/Union Street/Washington Boulevard intersection operated at an A.M. peak period LOS of B and P.M. peak hour LOS of C. The recently approved 196 unit project (P-2005-131) was also considered as cumulative background traffic when considering the proposed project. The additional 48 P.M. peak hour trips and 510 weekday trips generated from the proposed project would not reduce the existing intersection level of service below the City threshold of LOS D. The project's impact on intersection level of service would be less than significant. The project is subject to traffic impact fees to address potential incremental cumulative impacts to the citywide transportation network. Payment of these citywide fees results in a less than significant impact for long term cumulative impacts to the transportation network.

Interior circulation for the site is provided for through the development of a drive aisle intended for emergency and fire access only. An entry gate from High Street will allow for residents and guests to access the on-grade parking located adjacent to Building Two, but another gate will prevent any through access. Entrance to the subterranean parking garage is from Main Street, and is again protected from through access by gates. The gates will be equipped with infrared sensors to allow fire and emergency access to the site. Residents will be equipped with key cards or a remote device to release the access gates. A turn around area is provided adjacent to Building Two in order for folks to exit the on-grade parking should none be available or once they are preparing to leave the complex.

Street Right-of-way Dedication and Improvements:

Main Street Improvements: The Irvington Concept Plan (Concept Plan) identifies Main Street as a pedestrian-oriented link between the Five Corners and BART station. To define the pedestrian environment, the Concept Plan illustrates street corner bulb-outs, street trees, and other amenities for Main Street. The Concept Plan designates Main Street with a total right-of-way width of 64 feet, increasing the sidewalk width to 12 feet on each side. The developer is required to dedicate right-of-way and install street improvements along the Main Street frontage of the project.

High Street: High Street is classified as a two-lane collector street in the General Plan. The developer shall dedicate a minimum right-of-way width of 30 feet from centerline, which transitions to a 28 feet

right-of-way width from centerline as High Street intersects with Main Street. Since no improvements exist near the High and Main Street intersection, the developer is required to install street improvements that may be beyond the centerline to meet the minimum standard widths for traffic and emergency vehicle access.

Street Improvements: As part of the application, the developer will dedicate right-of-way and install complete street improvements, including, but is not limited to curb, gutter, sidewalk, curb ramps, pavement, landscape, utilities, removal of existing overhead utilities and street lights. Improvements within the public right-of-way shall be per City standards details.

Easements/Mapping:

To create the proposed parcel for the project, the developer will be required to submit a Lot Combination application for review and approval. In lieu of a Lot Combination application, the applicant can submit a Tentative Parcel Map application.

Grading & Drainage:

The existing topography of the site is relatively flat with elevations ranging between 73 feet to 69 feet above mean sea level. To meet the parking stall count required for the project, the developer is constructing a subterranean garage near the Main Street driveway entrance. The design includes retaining walls to slope the drive aisle down to the garage. Other grading for the site will consist mainly of grading necessary to bring the building and the curb grades to the required elevation to provide positive drainage for the site. The project Civil Engineer estimates the earthwork quantities to be 8,000 cubic yards of cut and 20 cubic yards of fill for a total grading of 8,020 cubic yards.

The project will connect to an existing storm drainage facility located on Main Street to drain onsite and street widening runoff. To collect the storm runoff on High Street, the developer is extending a storm drainage main pipe and installing curb inlets. The proposed storm drainage system will be subject to the approval of the City Engineer and Alameda County Flood Control District.

Urban Runoff Clean Water Program:

The Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit requires all new development to incorporate measures to prevent pollutants from being conveyed in storm water runoff and into the public storm drain system. This project is required to comply with the NPDES permit by incorporating treatment measures into the project design.

The project intends to meet the quantitative storm water treatment requirements by constructing bioretention areas within the project site and installing landscape based treatment within the public right-of-way. The storm water treatment design shall be integrated into the storm drain design for the project and shall be subject to review and approval of the City Engineer prior to building permit approval.

Utility Districts:

The project plan submittal includes a conceptual utility plan, for informational purposes, which shows the proposed location of utility mains (water, sewer, storm), fire hydrants, meters, and clean outs. The project landscape plans have been prepared with respect to the utility plan, such that trees and other landscape improvements are kept clear of utilities, as required by the respective agencies. During the building permit plan review, the project utility plan is subject to review, approval, and permitting by the

utility agencies, prior to building permit approval. The developer is encouraged to coordinate with the other permitting agencies and utility companies to prevent delay in obtaining building permit issuance.

Applicable Fees:

This project will be subject to Citywide Development Impact Fees. These fees include fees for fire protection, park facilities, park land in lieu, capital facilities and traffic impact. All applicable fees shall be calculated and paid at the fee rates in effect at the time of building permit issuance. The project qualifies for fee deferrals as it is an affordable project. The applicant shall make their fee deferral request concurrent with first building permit submittal if desired.

Environmental Review:

An Initial Study and Draft Mitigated Negative Declaration have been prepared for this project. The environmental analysis identified concerns regarding potential impacts from construction noise and seismic activity. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

The City received a comment from the Northwest Information Center regarding the potential for the discovery of unrecorded Native American resources and historic-period archaeological resources within the project area. The City has responded with a recommendation that an observer be present during initial ground disturbance and excavation activities to ensure that no archaeological resources are discarded or ignored (Condition #27).

Public Notice and Comment/Planning Commission Hearing:

Public hearing notification is applicable. A total of 81 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on June 12, 2009. A Public Hearing Notice was published by *The Tri-City Voice* on June 10, 2009.

In addition, a Notice of Preparation of a Draft Negative Declaration was published by *The Tri-City Voice* on June 4, 2009.

Courtesy signs were posted on the project site during application review, and 82 community meeting flyers were mailed as a courtesy to addresses located within 300 feet of the project site. The flyers invited the neighbors and interested parties to participate and view the plans at a community outreach meeting held by the applicants on June 4, 2009. A total of 18 people signed the attendance list at the community meeting. A copy of the meeting report is included as Informational Item # 5.

The Planning Commission hearing to recommend this project to City Council was held on June 25, 2009. Two Commissioners, Commissioner Dan Lydon and Commissioner Richard King, were absent. During the public hearing, several community members spoke in favor of the proposal, and identified the applicant's outreach to the community as being stellar. One community member spoke about design compatibility and the applicant's willingness to consider further design enhancements. Another community member, a Bay-Friendly qualified landscape contractor, spoke regarding the choice of street trees and expressed a desire for the inclusion of sidewalk furniture to aid in the pedestrian-friendly development of Main Street. He also spoke in favor of the overall project as well as the project design

to preserve the two existing mature Pepper Trees along the High Street frontage. Staff also fielded several questions from Commissioners regarding the on-going design process and direction. The Commission commented that the proposed design revisions to the elevations in the packet seen in the applicant's slide presentation were an improvement. The resulting vote was 5 in favor, with 0 against, 0 abstentions, and 2 absences.

Subsequent to the Planning Commission hearing, staff, the applicant and several community members met for a design brainstorming meeting. The agreed-upon changes and architectural enhancements resulting from that meeting are summarized in the Architecture Section of this report. As well, these changes will be presented to Council through revised hanging exhibits and a revised presentation by the applicant. Due to the very compressed time frame of this projects' entitlement stage, it was not possible to revise the drawings to meet the City Council enclosure deadline.

ENCLOSURES:

Exhibits:

[Exhibit "A" Draft Mitigated Negative Declaration](#)

[Exhibit "B" General Plan Amendment Draft Resolution and Redesignation Map](#)

[Exhibit "C" Draft Rezoning Ordinance](#)

Exhibit "D" Project plans: Site, Floor, Architectural Elevations, Landscaping Plan, and Preliminary Grading Plan (Please see the City Clerk's Office to view a copy of plans)

[Exhibit "E" Findings and Conditions of Approval](#)

Informational Items:

1. [Initial Study](#)
2. [Planning Commission Draft Minutes, June 25, 2009](#)
3. [Applicant statement regarding parking data](#)
4. [Multifamily GreenPoint Rated Checklist](#)
5. [Community Engagement Report from community meeting held by applicant on June 4, 2009](#)
6. [Applicant's statement](#)
7. [Project Information Maps](#)

Supplemental Hearing Materials:

1. Colors and Materials Board
2. Color renderings/elevations

RECOMMENDATION:

1. Hold public hearing.
2. Adopt the Mitigated Negative Declaration and find this action reflects the independent judgment of the City of Fremont.
3. Find that the proposed General Plan Amendment, Rezoning, Conditional Use Permit, Preliminary Grading Plan and Site Plan and Architectural Review are in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the proposed land use designation as well as the goals, objectives and policies set forth in the General Plan's

Land Use and Housing Chapters as enumerated within the staff report. The project also conforms to the goals, objectives, and policies of the Irvington Concept Plan.

4. Adopt a resolution approving a General Plan Amendment changing the land use designation from Medium Density Residential (15-18 dwelling units per acre) to High Density Residential (27-35 dwelling units per acre) as shown on Exhibit "B".
5. Waive full reading and introduce an ordinance rezoning the property from Planned District, P-84-12 to Multi-family Residence District, R-3-35 as shown on Exhibit "C".
6. Approve the conditional use permit and preliminary grading plan, as shown on Exhibit "D", subject to findings and conditions in Exhibit "E".

5.2 HOUSING ELEMENT REVISION

Public Hearing (Published Notice) to Consider a Planning Commission Recommendation to Adopt a Revised Housing Element of the City's General Plan

Contact Person:

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Executive Summary: Pursuant to State law, the City of Fremont must adopt an updated Housing Element of the City's General Plan. On March 9, 2009, the City Council directed staff to submit the draft updated Housing Element to the State Housing and Community Development Department (HCD) for their required review. HCD provided comments on the draft Element to the City by a letter dated May 8, 2009.

Staff has revised the draft Element to address HCD's comments. The Planning Commission considered the revised Element at its June 25, 2009 meeting and all present unanimously recommended that Council amend the General Plan by adopting it. Staff is requesting that the Council adopt the revised Element and direct staff to submit it to the State Department of Housing and Community Development for certification.

The official due date for the adopted Element was June 30, 2009. However, staff has spoken with HCD staff and was told that submitting the adopted Element by mid-July would be acceptable.

BACKGROUND: The City is charged by State statute with responsibility for updating its Housing Element. A Housing Element is a planning document (part of the General Plan) that guides the City's housing efforts. The Element not only provides general goals, objectives and policies but also proposes implementation programs to meet the stated goals and objectives. State law prescribes much of the content for the Housing Element. Housing Elements must identify and analyze existing and projected housing needs, effectiveness of the past Housing Element, constraints to the production of housing, and must also contain goals, policies, quantified objectives, and scheduled programs for the preservation, improvement and development of housing.

Based on these legal requirements, staff prepared a draft Housing Element for submittal to HCD. The Council considered the draft at its March 3, 2009 meeting. The staff report for the March 3 meeting contains a detailed description of the City's public outreach and the major components of the updated Housing Element, and is included as Informational Item 1. Council directed staff to submit the draft to HCD.

Existing law requires HCD to evaluate each housing element for consistency with State law including, among other things, a requirement for a program setting forth a five-year schedule of actions the local government is undertaking or intends to undertake to achieve the goals of the Housing Element. Those

actions include the identification of sites to be made available to encourage the development of a variety of types of housing for all income levels.

During the HCD review period, Advocates for Affordable Homes in Fremont submitted a letter to HCD outlining several comments and concerns regarding the City's draft Housing Element. Eden Housing also sent a letter to HCD supporting the draft Housing Element. Staff submitted a letter providing the City's perspective on the issues raised by Advocates for Affordable Homes. These letters are included as Informational Items 2-4.

By letter dated May 8, 2009, HCD provided a number of comments on the draft Housing Element. HCD recommended changes to ensure that the adopted Housing Element complies with State law. A copy of HCD's letter is included as Informational Item 5.

Staff has revised the draft Housing Element based on the comments received from HCD. These modifications are summarized in the following matrix, and the text changes are highlighted in the Housing Element, included as Exhibit "B." Some of HCD's comments are paraphrased based on clarifying discussions held subsequent to receipt of their letter.

HCD COMMENT	CITY RESPONSE	LOCATION OF CHANGE IN HOUSING ELEMENT
Housing Needs, Resources, and Constraints		
<u>Entitled Projects</u> —Remove sites from inventory where specific proposals are pending for market-rate projects.	Removed sites/units from inventory to reflect specific proposals for entitled projects. Added some commercially-designated sites to inventory where sites could be developed at 30 d/u acre by right under the City's mixed use ordinance.	Table 4-2 and related text.
<u>Realistic Capacity</u> —Include analysis and description of methodology used by City to calculate realistic development capacity for both residential and commercial sites in inventory.	Analysis and description of methodology added.	Section 4.3.2
<u>Small Sites</u> —Evaluate realistic potential for residential development on small sites that form part of City's inventory.	Additional analysis and description provided.	Section 4.3.2 Tables 4-2 and 4-3
<u>Suitability of Non-Vacant Sites</u> —Element must describe existing uses of underutilized sites and describe development trends, market conditions, and regulatory incentives and standards.	Additional analysis and description provided.	Tables 4-2 and 4-3 (each site described individually)

<u>Environmental Constraints</u> —Include general description of environmental constraints in City.	Description provided.	Section 4.3.6
<u>Fees and Exaction</u> —Add description of planning and processing fees for typical multifamily housing development. Description could include information on fee reduction included in the Local Stimulus Package adopted by the City Council.	Description added.	Table 5.2.4
<u>Local Processing and Permit Procedures</u> —Describe and analyze the City’s permit processing and approval procedures by zone and housing type.	Description and analysis added.	Section 5.2.6 Tables 5-3—5-5
<u>Inclusionary Housing</u> —Include complete description and analysis of the implementation framework for the City’s Inclusionary Housing Ordinance.	Description and analysis added.	Section 5.2.5
<u>Non-Governmental Constraints</u> —Provide more complete analysis.	More complete analysis provided.	Section 5.3
<u>Units At-Risk of Conversion</u> —Estimate cost of replacing and preserving at-risk units and include list of entities qualified to acquire at-risk units.	Estimate and list of entities included.	Section 3.6.7 Appendix A
Quantified Objectives		
Provide quantified objectives by income category.	Matrix providing quantified objectives by income category included.	Section 3.7.3
Housing Programs		
Identify adequate sites for construction of affordable housing; alternately, include a program to provide sufficient sites by rezoning.	Adequate sites identified.	Table 4-2
Describe the amount and uses of funds in the Redevelopment Agency’s Low and Moderate Income Housing Fund	Description added.	Chapter 6, Action 3.01-A
Revise action 3.04-E to provide a specific timeframe for review of the City’s fee structure.	Action 3.04-E revised.	Chapter 6, Action 3.04-E
Revise action 4.01-A to include strategy for quickly moving forward if at-risk units noticed to convert to market-rate uses.	Program revised	Chapter 6, Action 4.01-A

Inclusionary Housing Ordinance: In addition to the revisions made in response to HCD's comments, staff has also revised Action 3.01-B, Modify Inclusionary Housing Ordinance. Subsequent to submittal of the draft Element to HCD, a decision was issued by the California Court of Appeal for the Fifth Appellate District in Building Industry Association v. City of Patterson (petitions to review or depublish denied by the California Supreme Court 6-17-09) holding that a fee paid by developers under the terms of a development agreement as part of an inclusionary housing program should be analyzed and calculated as a development impact fee (Govt. Code sections 66000 et seq.). The City is putting revision of the Inclusionary Housing Ordinance on hold while it analyzes whether and how this decision impacts its options. Staff has accordingly modified Action 3.01-B and related text.

Planning Commission Meeting: The Planning Commission considered the revised Housing Element and the accompanying Draft Negative Declaration at its June 25, 2009 meeting. The Commission recommended (5-0-0-2 absent) that Council amend the General Plan by adopting the revised Element and also that Council adopt the Negative Declaration.

ENVIRONMENTAL REVIEW: An Initial Study and Draft Negative Declaration have been prepared and circulated for this project. The environmental analysis did not identify any concerns regarding potential environmental impacts. The draft Negative Declaration is enclosed as Exhibit "A" and the Initial Study is provided as Informational Item 6.

PUBLIC NOTICE AND COMMENT: A total of 249 notices regarding the Council meeting were mailed to parties who have requested to be notified regarding City meetings and actions related to housing programs. In addition, e-mail notification was provided to the General Plan mailing list, which includes over 800 e-mail addresses of individuals who have requested to be kept informed of public meetings related to the General Plan Update.

Staff also notified and met with a number of housing stakeholders on June 18, 2009, to describe the City's responses to HCD's comments. The stakeholders made several suggestions that staff incorporated into the revised Element.

ENCLOSURES:

Exhibits:

<u>Exhibit "A"</u>	<u>Draft Negative Declaration</u>
<u>Exhibit "B"</u>	<u>Draft Housing Element (Track Changes; additions and deletions)</u>
<u>Exhibit "C"</u>	<u>Draft Resolution</u>

Informational Items:

- [1. March 3, 2009 City Council Staff Report;](#)
- [2. Letter from Advocates for Affordable Homes to HCD;](#)
- [3. Letter from Eden Housing to HCD;](#)
- [4. Letter from City of Fremont to HCD;](#)
- [5. May 8, 2009 Comment Letter from HCD.](#)
- [6. Initial Study.](#)

RECOMMENDATION:

1. Hold public hearing.
2. Adopt a Negative Declaration and find this action reflects the independent judgment of the City of Fremont as shown on Exhibit "A."
3. Adopt a resolution amending the General Plan by adopting the updated Housing Element as shown in Exhibit "B."
4. Direct staff to submit the draft Housing Element to the State Housing and Community Development Department for their review and certification.

6.1 Report Out from Closed Session of Any Final Action

7.1 MIDTOWN DISTRICT – TOWN FAIR ONE PROPERTY ACQUISITION

Authorize a Series of Actions to Enable City Acquisition of a 1.59 Acre Parcel (Town Fair One) Located at the Corner of Capitol Avenue and State Street

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Executive Summary: This report recommends that the City Council approve and authorize a series of actions to enable City acquisition of a 1.59 acre parcel located at the corner of Capitol Avenue and State Street (Property), including the following: 1) approval and authorization for the City Manager to execute all documents necessary for the City to acquire the property; 2) approval and authorization for the City Manager to take all steps needed to complete the purchase of the Property, including making all purchase price and closing cost payments and payment of the fee required to pre-pay and eliminate the current loan on the Property; 3) approval and appropriation of \$4,000,000 from Fund 541 (Park Dedication Fees AB1600) to 541PWC8520 (Downtown Plan project) for the acquisition of a 1-acre portion of the Property for a future civic park; 4) approval for use of the current appropriation of \$2,400,000 from Fund 501PWC8520 (Downtown Plan project) for the acquisition of a .59 acre portion of the Property for the continuation and/or expansion of existing City facilities in the Midtown district; 5) approval and authorization for the City Manager to execute a Management Agreement with TMG Partners for the professional management of the Property following City acquisition; and 6) approval and authorization for the City Manager to take such other actions on the City's behalf as are appropriate to complete the transaction described in this report.

BACKGROUND:

Property description: The 1.59-acre Property (see Exhibit A) is commonly referred to as Town Fair One and is located on the southeast corner of Capitol Avenue and State Street. The Property includes a 22,000 square foot one story office building and 120 parking spaces. The Property is strategically located immediately adjacent to other City-owned property along the south side of Capitol Avenue (the Family Resource Center) and across the street from vacant City-owned property (the former future City Hall site).

One of the immediate benefits of this Property purchase is to assist the City in its space needs. The Parks and Recreation Department staff has already indicated their interest and intent to use the former Club Mango space that is currently vacant. The new "Club Reg-E" would be used for events, classes and additional programming that cannot be accommodated at existing City recreational facilities. As with other Parks and Recreation programs, Club Reg-E would be financially self-supporting.

For the longer term, this Property will help the City meet the goals of the Central Business District Concept Plan, adopted in 2001, which are to guide development in the area in order to create a pedestrian-friendly heart to the City of Fremont. To implement its goals, the Plan makes several key recommendations, including dividing the Central Business District into distinct sub-districts and

establishing a “focus area” to become the Main Street pedestrian-oriented core. As outlined in the Concept Plan, Capitol Avenue has become the center of the focus area. The Property discussed herein is located in the heart of this focus area and the future Midtown District development. In addition, as discussed at the March 24, 2009 City Council meeting, this specific Property could be the location of a large civic park framed by other city facilities.

Recent Activity: The unique nature of developing the Midtown District requires an equally unique and strong development team. In August 2008, the City entered into a Memorandum of Understanding (MOU) with TMG Partners as the new development partner for the Midtown District. TMG Partners was founded in 1984 and has built a diversified development portfolio of retail, residential and office properties valued at over \$3 billion. Some of their more recent significant projects include The Crossings in San Bruno, Marin City and Hamilton Air Force Base in Marin County, downtown Pleasant Hill, and Emery Bay in Emeryville. TMG Partners has expertise in real estate finance, leasing, government approvals, public-private partnerships, and construction. They have a 25-year record of financial success and award-winning projects.

Shortly after signing the MOU, TMG Partners began the process of meeting with the property owners adjacent to the City-owned parcel at State Street and Capitol Avenue (the former future City Hall site). These meetings included meeting with representatives of the owner of Town Fair One. Coincidentally, the subject Property was listed for sale at the time. Because the Property allows for the continuation and/or expansion of City programs and services, such as Club Reg-E, along with the longer term potential for strategic development in the Midtown District including the construction of a civic park that serves as a central plaza, the City Council directed staff to work with TMG Partners to acquire the Property and conduct the due diligence required for its acquisition. In March 2009, TMG Partners and Fremont Real Estate Partners II, LLC, A Delaware Limited Liability Company (the owner of Town Fair One), entered into a Purchase and Sale Agreement for the purchase of the Town Fair One property at a negotiated sale price of \$5,280,000.

Mechanism for Purchase: Assuming the Council moves forward with the recommendations outlined in this report, one of the subsequent actions to be taken by City staff is the completion of an Assignment Agreement whereby the City would take over the rights and obligations of TMG Partners under the Purchase and Sale Agreement to become the direct buyer of the Property. In the alternative, the City may acquire the property from TMG Partners after it acquires the property. The City would then control an additional asset as it works toward its long term goal of developing the Midtown District and building a civic park as part of the Midtown development. Staff also proposes the execution of a Management Agreement with TMG Partners for the operation and management of the Property that would accommodate the use of available space for the City’s own programmatic needs (such as Club Reg-E).

Environmental Review/General Plan Conformance/Recreation Commission Approval: The acquisition of the 1.59 acre Property is categorically exempt from environmental review pursuant to State CEQA Guideline 15301 (continuation of existing facilities) and State CEQA Guideline 15332 (urban infill project consistent with the General Plan), since the immediate use of the Property following acquisition would be for continued commercial use of the current facility without major alteration, and any ultimate reuse of this already urbanized site would be for a use consistent with the City’s General Plan. When the ultimate reuse is determined, any appropriate follow-up CEQA analysis would then be conducted and presented for City Council consideration prior to action on such reuse.

On June 25, the Planning Commission considered the proposed acquisition of the Town Fair One property for conformity with the General Plan, pursuant to Government Code Section 65402 (c) which requires that prior to acquiring real property for any purpose, the planning agency of any city or county with an adopted General Plan must report that the acquisition conforms to the General Plan. The commission found by a (5-0-2 absent) vote that the proposed acquisition is in conformance with the General Plan.

At its July 1 meeting, the Recreation Commission considered this item and found the proposed acquisition conforms to the criteria for purchasing park land and is suitable for City's acquisition of 1-acre of future parkland as part of the 1.59 parcel purchase (6-0-1).

Funding: The \$5,280,000 purchase price includes a payment of \$2,130,000 to the seller and immediate payoff of the \$3,150,000 principal amount for the existing loan on the Property. In addition, there is a Yield Maintenance Provision in the current loan which requires an early loan repayment fee of an estimated \$811,000. Transaction-related costs for the acquisition of the Property, including tenant improvements of available space to accommodate City interim use, are estimated to require an additional \$309,000. Consequently, the total anticipated City cost for the transaction is \$6,400,000 (\$2,130,000 + \$3,961,000 + \$309,000).

Funding is to come from two sources. The City of Fremont imposes requirements for the dedication of park land or payment of an in-lieu fee under the authority of the State of California Government Code and pursuant to its police power. The purpose of these fees is to provide the City with the financial resources necessary to expand and improve the citywide park system to serve the needs of the growing community, and to mitigate the impact on the existing park system caused by use by new residents moving into new housing units. Section 66477 of the Government Code (commonly referred to as the Quimby Act) establishes procedures for cities and counties to require the dedication of park land or payment of fees in lieu of park land from a residential subdivision. Sections 66000 et seq. of the Government Code establishes procedures for development impact fees. This legislation (enacted and commonly referred to as AB 1600) empowers the City of Fremont to collect a fee for park land acquisition from developers of non-subdivision developments.

Currently, there is approximately \$13,500,000 available in Fund 541 for the acquisition of property for the purpose of acquiring park land. Staff is recommending the City use \$4,000,000 of these funds for the current acquisition proposal, thereby assuring that land will be set aside for a civic park in the Midtown District. In addition, there is approximately \$5,000,000 currently appropriated in Fund 501 to PWC8520 (Downtown Plan project) from previous Capital Improvement Program allocations. Staff is recommending the City use \$2,400,000 of these funds for the current acquisition proposal. The remaining \$2,600,000 would be for the Midtown Community Plan and Design Guidelines and Environmental Impact Report as outlined at the March 24 City Council meeting, along with other activities intended to move the Midtown District development forward.

ENCLOSURE: [Enclosure A: Map of Town Fair One site](#)

RECOMMENDATION: That the City Council approve and authorize a series of actions to enable City acquisition of a 1.59 acre Property located at the corner of Capitol Avenue and State Street needed for continuation and/or expansion of existing City facilities, including the following:

1. Approval and authorization for the City Manager to execute an Assignment and Assumption Agreement with TMG Partners, whereby TMG Partners will assign to the City its rights under a Purchase and Sale Agreement with the current parcel owner, so that the City can become the buyer of the Property or in the alternative, enter into a Purchase and Sale agreement with TMG Partners to acquire the property after it is acquired by them;
2. Approval and authorization for the City Manager to take all steps needed under a Purchase and Sale Agreement to complete the purchase of the Property, including making all purchase price and closing cost payments and payment of the fee required to pre-pay and eliminate the current loan on the Property;
3. Approval and appropriation of \$4,000,000 from Fund 541 (Park Dedication Fees AB1600) to 541PWC8520 (Downtown Plan project) for the acquisition of a 1-acre portion of the Property for a future civic park;
4. Approval for use of the current appropriation of \$2,400,000 from Fund 501PWC8520 (Downtown Plan project) for the acquisition of a .59 acre portion of the Property for continuation and/or expansion of existing City facilities in the Midtown District;
5. Approval and authorization for the City Manager to execute a Management Agreement with TMG Partners for the professional management of the Property following City acquisition;
6. Approval and authorization for the City Manager to take such other actions on the City's behalf as are appropriate to complete the transaction described in this report; and
7. A determination that the transaction described in this report is exempt from CEQA pursuant to State CEQA Guidelines Sections 15301 and 15332.

8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Appointment of Caroline Harris to the Environmental Services Advisory Commission

Appointment:

<i>Advisory Body</i>	<i>Appointee</i>	<i>Term Expires</i>
Environmental Services Advisory Commission	Caroline Harris (representing Environmental Organization)	December 31, 2012

ENCLOSURES: [Commission Application](#)

8.1.2 VICE MAYOR NATARAJAN REFERRAL: Consider Adding the City of Fremont to the Bay Area Climate Change Compact

The Silicon Valley Leadership Group, in association with the Joint Venture Silicon Valley, has launched the Bay Area Climate Collaborative to consider regional responses to climate change. They are requesting cities to sign on to the Bay Area Climate Change Compact in order to achieve the following “Collaborative Objectives:”

- Guide and develop, by joint example, actions that reduce the region’s greenhouse gas emissions, and increase the implementation of the Bay Area Climate Change Control.
- Proactively create cross-sector, cross-jurisdictional and public-private partnerships across the region in support of implementation of the Bay Area Climate Change Compact
- Work together to leverage local, state and federal resources to implement the Bay Area Climate Change Compact
- Share information and best practices on climate change mitigation and adaptation.

Current signatories to the Compact and members of the Collaborative include: City of San Jose, City of San Francisco, City of Oakland, Silicon Valley Leadership Gala, Joint Venture Silicon Valley, Bay Area Council and recently, the City of Mountain View.

I am requesting that staff evaluate the City’s potential participation in the Bay Area Climate Collaborative and the impact of becoming a signatory to the Bay Area Climate Change Compact.

ENCLOSURES:

- [Enclosure A - Bay Area Climate Change Compact](#)
- [Enclosure B - Sample Resolution](#)

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG	Association of Bay Area Governments	FUSD	Fremont Unified School District
ACCMA	Alameda County Congestion Management Agency	GIS	Geographic Information System
ACE	Altamont Commuter Express	GPA	General Plan Amendment
ACFCD	Alameda County Flood Control District	HARB	Historical Architectural Review Board
ACTA	Alameda County Transportation Authority	HBA	Home Builders Association
ACTIA	Alameda County Transportation Improvement Authority	HRC	Human Relations Commission
ACWD	Alameda County Water District	ICMA	International City/County Management Association
BAAQMD	Bay Area Air Quality Management District	JPA	Joint Powers Authority
BART	Bay Area Rapid Transit District	LLMD	Lighting and Landscaping Maintenance District
BCDC	Bay Conservation & Development Commission	LOCC	League of California Cities
BMPs	Best Management Practices	LOS	Level of Service
BMR	Below Market Rate	MOU	Memorandum of Understanding
CALPERS	California Public Employees' Retirement System	MTC	Metropolitan Transportation Commission
CBD	Central Business District	NEPA	National Environmental Policy Act
CDD	Community Development Department	NLC	National League of Cities
CC & R's	Covenants, Conditions & Restrictions	NPDES	National Pollutant Discharge Elimination System
CDBG	Community Development Block Grant	NPO	Neighborhood Preservation Ordinance
CEQA	California Environmental Quality Act	PC	Planning Commission
CERT	Community Emergency Response Team	PD	Planned District
CIP	Capital Improvement Program	PUC	Public Utilities Commission
CMA	Congestion Management Agency	PVAW	Private Vehicle Accessway
CNG	Compressed Natural Gas	PWC	Public Works Contract
COF	City of Fremont	RDA	Redevelopment Agency
COPPS	Community Oriented Policing and Public Safety	RFP	Request for Proposals
CSAC	California State Association of Counties	RFQ	Request for Qualifications
CTC	California Transportation Commission	RHNA	Regional Housing Needs Allocation
dB	Decibel	ROP	Regional Occupational Program
DEIR	Draft Environmental Impact Report	RRIDRO	Residential Rent Increase Dispute Resolution Ordinance
DO	Development Organization	RWQCB	Regional Water Quality Control Board
DU/AC	Dwelling Units per Acre	SACNET	Southern Alameda County Narcotics Enforcement Task Force
EBRPD	East Bay Regional Park District	SPAA	Site Plan and Architectural Approval
EDAC	Economic Development Advisory Commission (City)	STIP	State Transportation Improvement Program
EIR	Environmental Impact Report (CEQA)	TCRDF	Tri-Cities Recycling and Disposal Facility
EIS	Environmental Impact Statement (NEPA)	T&O	Transportation and Operations Department
ERAF	Education Revenue Augmentation Fund	TOD	Transit Oriented Development
EVAW	Emergency Vehicle Accessway	TS/MRF	Transfer Station/Materials Recovery Facility
FAR	Floor Area Ratio	UBC	Uniform Building Code
FEMA	Federal Emergency Management Agency	USD	Union Sanitary District
FFD	Fremont Fire Department	VTa	Santa Clara Valley Transportation Authority
FMC	Fremont Municipal Code	WMA	Waste Management Authority
FPD	Fremont Police Department	ZTA	Zoning Text Amendment
FRC	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27
BROADCAST SCHEDULE**

<i>Date</i>	<i>Time</i>	<i>Meeting Type</i>	<i>Location</i>	<i>Cable Channel 27</i>
July 14, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 21, 2009	TBD	Work Session	Council Chambers	Live
July 28, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
August		Council Recess		
September 1, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 8, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 15, 2009	TBD	Work Session	Council Chambers	Live
September 22, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 5, 2009 (Monday)	4:00 p.m.	Joint City Council/FUSD Mtg.	Council Chambers	Live
October 6, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 13, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 20, 2009	TBD	Work Session	Council Chambers	Live
October 27, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 3, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 10, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 17, 2009	7:00 p.m.	Work Session	Council Chambers	Live
November 24, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live